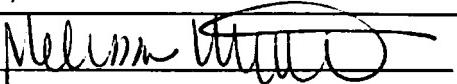


PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) P17183-US1	
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Typed or printed name <u>Melissa Wingo</u>	First Named Inventor Santeri Anttalainen	Art Unit 2617	Examiner Manoharan, Muthuswamy Ganapathy

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- applicant/inventor.
- assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)
- attorney or agent of record. 45,602
Registration number _____
- attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____



Sidney L. Weatherford

Typed or printed name

972-583-8656

Telephone number

March 12, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

<input type="checkbox"/> *Total of <u>1</u> forms are submitted.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Santeri Anttalainen, et al. § Group Art Unit: 2617
Application No: 10/595,140 § Examiner: Manoharan,
No: § Muthuswamy
Ganapathy
Filed: March 3, 2006 § Confirmation No: 3295
Attorney Docket No: P17183-US1
Customer No : 27045

For: Method of controlling a communication control entity

**Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
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Date: <u>March 12, 2009</u>
Name: <u>Melissa Wingo</u>
Signature: <u>Melissa Wingo</u>

Dear Examiner:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Issues regarding the Pre-Appeal Brief Request are as follows:

- 1) Support for claims rejection in the Final Office Action dated November 11, 2008 is not valid

Claims 1-3 and 5-6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ernam et al (hereinafter Ernam) (US 6097951) in view of Brudos, et al. (hereinafter Brudos) (US 6505050). The Applicant respectfully submits that Examiner has not provided a prima facie case of obviousness as required in MPEP 2143.

2) The Advisory Action

The Applicant's request for reconsideration has been reconsidered but the arguments are not persuasive. The Applicant asserts that there is insufficient support for the continued rejection of the Applicant's claims.

ARGUMENTS

Issue 1)

The Applicant respectfully submits that Examiner has not provided a prima facie case of obviousness as required in MPEP 2143. There is insufficient support for the rejection of independent claims 1, 5, 6 and dependent claims 2 and 3, because at least one of the three basic criteria has not been met. Of the required basic criteria, the Applicant believes the Examiner has failed to provide prior art that, individually or in combination, teaches or suggests all of the claim limitations.

The pertinent limitations of claim 1 (claim 5 is analogous to claim 1 with similar limitations) that are missing from the prior art are emphasized in claim 1 below.

1. (Previously Presented) A method of controlling a communication control entity in a communication control part of a mobile communication network that comprises a communication control part and an access part, said communication control entity acting as a primary communication entity for a call communication and belonging to a pool of communication control entities among which no handover procedure is conducted as long as a mobile communication device moves among service realms associated with a predetermined number of access control entities that are connected to said pool, said method comprising the steps:

receiving a handover request for removing a first secondary communication control entity from a control process for controlling said call communication and adding a second secondary communication control entity,

determining whether said second secondary communication control entity belongs to said pool, and if said second secondary communication control entity belongs to said pool, rejecting said second secondary communication control entity to said control procedure and instead communicating directly by said

communication control entity with the mobile communication device
of which said given call communication is being controlled via an
access control entity connected to said primary communication
control entity without utilizing any secondary communication control
entity as a relay." (emphasis added)

The Applicant respectfully submits the rejection is not supported by the cited Ernam and Brudos references.

Elements in Applicant's claim 1 (with similar limitations in claims 5 and 6) that are not found in the Kawan reference:

1. "...removing a first secondary communication control entity from a control process for controlling said call communication and adding a second secondary communication control entity...."

The Applicant's invention relates to controlling a communication control entity. A communication control entity (e.g., a primary MSC), in a pool of communication control entities (e.g., MSC pool), acts as a primary communication control entity. A mobile unit, being connected to the primary entity via a secondary entity, requests a new secondary entity to connect to the primary entity (i.e., a handoff procedure). If the new secondary entity is part of the pool, the primary entity establishes direct communication with a new secondary entity without involving the original secondary entity (see Abstract, page 10, line 32 - page 11, line 29 of the Applicant's specification) thus avoiding an unnecessary handoff procedure.

Ernam is cited for disclosing a dispatching MSC, which is used to reject the Applicant's primary communication control entity. The Ernam reference provides for "distributing mobile station subscribers ... among the pool of mobile switching centers" (Abstract). Ernam discloses the dispatching MSC as being situated between the base station subsystem and the pool of MSCs (Abstract, Figure 3). Ernam discloses that the pool of MSCs communicate with a base station system through the special dispatcher MSC (see col. 6, lines 7-20 and FIG. 5).

Neither the Ernam reference nor the Brudos reference discloses this step of removing. Ernam is the only reference cited for disclosing this limitation in the Final Office Action (col. 10, lines 41-43). The cited portion of Ernam discloses an incoming mobile requiring an inter-MSC handover. The dispatcher MSC decides which MSC in the pool serves the mobile; not, communicating with the mobile through a second MSC (Applicant). The control entity (primary MSC) of the Applicant's invention removes a current secondary entity (first secondary MSC) and replaces with the second (handoff) entity (second secondary entity, or MSC) and communicates with the mobile directly through the second entity.

2. "... rejecting said second secondary communication control entity to said control procedure and instead communicating directly by said communication control entity with the mobile communication device ..."

In the Advisory Action, the Examiner questions how the communication control entity can reach the mobile device. As described above, the new secondary control entity, being part of the pool, signals the primary control entity and the primary control entity connects directly to the new secondary control entity without using the original secondary entity as a relay.

The Applicant's primary control entity is part of the MSC pool (Figures 1a and 1b) and assists in handoff between MSCs in the MSC pool. The Examiner, in the Final Office Action, cites Brudos as disclosing this limitation. The Applicant believes this is incorrect as the cited portion of Brudos discloses the routing of a call from PSTN to a mobile unit that is in a gateway cluster of serving MSCs (sMSCs); not a handoff. Brudos discloses a method and apparatus for reducing route request messages (Title, col. 2, lines 37-48). And, a database of indicators is stored in an HLR for identifying whether a serving MSC is contained in the cluster. This is provided to limit the need for request messages between an HLR and a serving MSC. There is no mention or hint of a transfer/handoff between MSCs and the decision of a primary control entity (e.g., sMSC) to connect to a new secondary entity (other sMSC).

3. "...an access control entity connected to said primary communication control entity without utilizing any secondary communication control entity as a relay."

As noted above, neither the Ernam nor the Brudos reference teaches a primary control entity connecting to a new access control entity (new secondary control entity) as a relay. The primary entity connects directly to the new secondary entity if the new entity is in the MSC pool.

Issue 2) The Advisory Action

The Applicant's response to the Final Office Action failed to place the Application in condition for allowance.

The Advisory Action states that the dispatcher of Ernam is provided "...just to provide that functionality and is not "another communication control entity as in claim." and "...Brudos is included to show that one can have a distributed control entity...". The Applicant respectfully submits that merely combining references that disclose multiple MSCs (Ernam discloses an MSC pool, but Brudos discloses multiple MSCs having a common wireless gateway) does not meet the requirement of a *prima facie* case of obviousness; nor does rationalizing that combination by stating that Brudos and Enam provide two different ways of handling routing. Ernam distributes mobile station subscribers among the MSC pool and Brudos provides means for suppressing route request messages. The Applicant discloses avoiding unnecessary handoff procedures. The combination of Ernam and Brudos do not address nor solve this problem. The Applicant respectfully disagrees with the combination of the two references as there is no motivation to combine the two.

Therefore, the Applicant respectfully submits that the rejection of claims 1-3 and 5-6 is not supported by the referenced prior art, Ernam and Brudos, and the allowance of the subject claims is respectfully requested.